IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE FOURTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 179 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 16.11.2004 in WP NO : 22393 OF 1996 on the file of the High Court.)

Between:

Sk. Abbas, S/o Sk.. Jamal,
R/o 13/11-118, Peon Basti, Near Head office, Kothagudem,

Khammam District.

..... APPELLANT

AND

1 APSRTC, rep. by its Vice Chairman & Managing Director, Mushirabad, Hyderabad.
2 Excecutive Director, APSRTC, Karimnagar.
3 Regional Manager, APSRTC, Warangal Region, Hanamkonda, Warangal,
4 Divisional Manager, APSRTC, Khammam Division, Khammam.

.....RESPONDENTS

Counsel for the Appellant : MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondents: SMT.P.RAJANI REDDY

The Court at the stage of admission, made the following JUDGMENT:(per SAR,J)

The writ appeal is filed by the appellant-writ petitioner aggrieved by the order in W.P.No.22393 of 1996 dated 16.11.2004 passed by a learned single Judge of this Court, who with reference to the period during which the appellant-writ petitioner was out of service, directed not to be counted as in service.

The appellant-writ petitioner was appointed as a driver in the respondent-corporation in the year 1977. On 31.01.1991, he was entrusted with the duty of driving a Depot Goods Transport (DGT) vehicle to be taken to Bhadrachalam from Karimnagar. In the process, the appellant-writ petitioner diverted the vehicle as per the instructions of the traffic police. Pursuant to the same, charges were framed against him and disciplinary action was initiated. After conducting necessary enquiry, the appellant-writ petitioner was removed from service. On an appeal, the appellate authority allowed the appeal on 26.11.1993 ordering reinstatement, but reduced his scale of pay apart from treating the period of his absence from the date of removal till the date of reinstatement as 'not on duty' and on review, the reviewing authority modified the punishment to one of reduction of pay by two incremental stages for a period of two years and directed for restoration of the scale of pay. The order of the reviewing authority was silent regarding the treatment of period of absence from the date of removal till the date of reinstatement. Aggrieved by that, the

appellant-writ petitioner filed the writ petition and sought to set aside the order of the reviewing authority. The learned single Judge not satisfied with the contentions of the appellant-writ petitioner, confirmed the order by dismissing the writ petition. Hence, the present writ appeal.

The learned counsel for the appellant-writ petitioner contended that if the appellant-writ petitioner's service is not counted as continuous service from the date of appointment and if the period during which he was out of service is treated as not in service, he will lose the terminal benefits as it would amount to fresh appointment after reinstatement. Therefore, the learned counsel sought to modify the order.

The learned Standing Counsel for the respondents-corporation sought to sustain the order.

Heard both sides and considered the material available on record.

In view of the fact that the punishment imposed by the disciplinary authority was modified both by the appellate authority as well as the reviewing authority restricting it to reduction of pay by two incremental stages for a period of two years, we are of the opinion that the exclusion of the period during which he was not in service would not amount to fresh appointment. Therefore, we direct that for all other practical purposes, the period during which the appellant-writ petitioner was out of service shall be counted for the purpose of computing the terminal benefits without giving any additional monetary benefit for the said period.

Accordingly, the writ appeal is allowed modifying the order of the learned single Judge.

(T.MEENA KUMARI, J)

(S.ANANDA REDDY, J)

DT: 14.02.2005

bsv/lvl

To

1 The Vice Chairman & Managing Director, APSRTC, , Mushirabad, Hyderabad.
2 The Excecutive Director, APSRTC, Karimnagar.
3 The Regional Manager, APSRTC, Warangal Region, Hanamkonda, Warangal,
4 The Divisional Manager, APSRTC, Khammam Division, Khammam.

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